IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE V.GIRI

MONDAY, THE 17TH DECEMBER 2007 / 26TH AGRAHAYANA 1929

WP(C).No. 34929 of 2007(G)

PETITIONER:

HIRA LAL,
RAKSHAK/CLK (NO.14557532X), DEFENCE SECURITY
CORPS RECORDS, PIN-901277, C/O. 56 APO, KANNUR.

BY ADV. SRI.K.B.GANGESH
SMT.SMITHA CHATHANARAMBATH

RESPONDENTS:

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1. UNION OF INDIA, REPRESENTED BY
THE PRINCIPAL SECRETARY TO THE MINISTRY OF
DEFENCE, NEW DELHI.

2. THE COMMANDANT,
DEFENCE SECURITY CORPS CENTRE, KANNUR.

3. THE CHIEF RECORDS OFFICER,
DEFENCE SECURITY CORPS RECORDS, PIN-901277,
C/O 56 APO, KANNUR.

4. ADJUTANT GENERAL,
IHQ OF MOD (ARMY), ADJUTANT GENERAL'S BRANCH,
ADDITIONAL DTE GEN, OF RTG/RTG 5 (OR)(A),
WEST BLOCK-III, R.K.PURAM, NEW DELHI.

5. DIRECTOR RECRUITING,
RECRUITING OFFICE (HQ), 236, MAHATMA GANDHI ROAD,
LUCKNOW CANTT.

BY ASG. SRI. P.PARAMESWARAN NAIR

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 17/12/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

V.GIRI, J

W.P.(C). 34929/2007

Dated this the 17th day of December, 2007

JUDGMENT

Petitioner is working as a Clerk at the Defense Security Corps, Centre at Kannur. He was appointed at the Centre on 9.2.2007, according to him, on the strength of his reporting before the fifth respondent on 11.6.2005. The present employment as a clerk is a re-employment in as much as the petitioner who had been initially working in the EME was discharged on 30.9.2000. The terms and conditions of the re-employment of DSC are contained in Ext.P2. Apparently, re-employment should be within five years of the retirement/discharge of the ex-service. Ext.P3 clarification was issued incorporating the stipulation that the period of five years will be counted with reference to the date on which the ex-servicemen reports to the Recruiting Officer for re-employment.

2. Petitioner's case is that he had reported for re-employment on 11.6.05 and this is within five years from

the date of discharge on 30.9.00. It seems that finding that the petitioner is re-eligible for re-employment, he was offered the post of Clerk on the DSC at Kannur. He has been working since 9.2.2000. While so, Ext.P1 has been issued to him pursuant to his discharge from service on the ground that his re-employment is irregular. Though Ext.P8 objection has been submitted, Ext.P1 seems to reflect a decision and it also refers to instructions from the headquarters.

3. I find force in the submission made by the learned counsel for the petitioner that Ext.P1, to some extent reflects an earlier deliberation and decision.

4. After hearing the counsel on both sides, writ petition is disposed of directing the second respondent to consider Ext.P8 objection by treating Ext.P1 notice as a show cause notice. Petitioner shall be heard before a decision is taken pursuant to Ext.P8. If the decision to be taken in this regard is adverse to the petitioner,

then enforcement of the same shall be kept in abeyance for a period of three weeks from the date on which copy of the same is served on him to enable the petitioner to take appropriate steps in relation to that.

Subject to the above observations, writ petition is disposed of.

V.GIRI,
Judge

mrcs